

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**GAYATRI PERSAUD,**

**Plaintiff,**

**vs.**

**MOEN INCORPORATED,**

**Defendant.**

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**CASE NO. 1:08CV2003**

**JUDGE CHRISTOPHER A. BOYKO**

**ORDER OF DISMISSAL**

**CHRISTOPHER A. BOYKO, J.:**

This matter comes before the Court upon Plaintiff's Motion (ECF DKT #10) to Dismiss her Federal Causes of Action Only Without Prejudice. Pursuant to Fed. R. Civ. P. 41(a)(2), the Motion is granted.

The captioned case was removed to U.S. District Court on August 19, 2008 on the basis of federal question jurisdiction. "[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendants." 28 U.S.C. § 1441(a). However, defects in subject matter jurisdiction may be raised at any time in the proceedings. See *Blackburn v. Oaktree Capital Mgmt., LLC*, 511 F.3d 633, 636 n.4 (6<sup>th</sup> Cir. 2008). "[I]f at any time before final judgment it appears that the district court lacks subject

matter jurisdiction, the case *shall* be remanded.” (Emphasis added). 28 U.S.C. § 1447(c).

By her Motion, Plaintiff is dismissing all of her federal claims, leaving only her claims of disability and age discrimination under Ohio law as contained in Count I and Count III remaining. Assuming the case was properly removed on the basis of federal question jurisdiction initially, the elimination of the federal claims makes remand appropriate and necessary now. *Blackburn*, 511 F.3d at 637.

Therefore, the above-captioned case is remanded to the Common Pleas Court of Cuyahoga County, Ohio due to lack of subject matter jurisdiction.

**IT IS SO ORDERED.**

**DATE: October 30, 2008**

s/Christopher A. Boyko  
**CHRISTOPHER A. BOYKO**  
**United States District Judge**